



January 25, 2002

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## SENATE BILL No. 207

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DIGEST OF SB 207 (Updated January 23, 2002 7:15 PM - DI 106)

**Citations Affected:** IC 5-2; IC 20-5; IC 20-6.1; IC 34-30; IC 35-42.

**Synopsis:** School employees and children. Enables school corporations to obtain limited and national criminal history checks for all employees rather than only for new employees. Makes conforming changes in the policies that schools may adopt concerning criminal history checks. Enables the professional standards board to suspend a teacher's license for certain noncriminal behaviors. Requires certain officials to report when a teacher is arrested for or convicted of certain crimes or is dismissed or resigns because of certain behaviors. Provides civil immunity for making these reports. Provides uniformity in the grounds for which licenses may be revoked and the contracts of permanent and semipermanent teachers may be canceled concerning sexual misconduct with a minor. Enables teachers charged with certain crimes to be suspended without salary.

**Effective:** July 1, 2002.

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### Clark, Lubbers, Waterman, Howard

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January 7, 2002, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.  
January 24, 2002, amended, reported favorably — Do Pass.

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SB 207—LS 6724/DI 22+



January 25, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## SENATE BILL No. 207

A BILL FOR AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 5-2-5-5, AS AMENDED BY P.L.272-2001,  
2 SECTION 2, AND AS AMENDED BY P.L.228-2001, SECTION 2, IS  
3 AMENDED AND CORRECTED TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) Except as provided in  
5 subsection (b), on request, law enforcement agencies shall release or  
6 allow inspection of a limited criminal history to noncriminal justice  
7 organizations or individuals only if the subject of the request:  
8 (1) has applied for employment with a noncriminal justice  
9 organization or individual;  
10 (2) has applied for a license and criminal history data as required  
11 by law to be provided in connection with the license;  
12 (3) is a candidate for public office or a public official;  
13 (4) is in the process of being apprehended by a law enforcement  
14 agency;  
15 (5) is placed under arrest for the alleged commission of a crime;  
16 (6) has charged that his rights have been abused repeatedly by  
17 criminal justice agencies;

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(7) is the subject of judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;

(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;

**(9) is employed by a public school (as defined in IC 20-10.1-1-2) or nonpublic school (as defined in IC 20-10.1-1-3) or by an entity that seeks to enter into a contract with a public or nonpublic school if the subject of the request is expected to have direct, ongoing contact with school children within the scope of the individual's employment;**

**(10)** has volunteered services at a public school (as defined in IC 20-10.1-1-2) or non-public school (as defined in IC 20-10.1-1-3) that involve contact with, care of, or supervision over a student enrolled in the school;

~~(10)~~ **(11)** is being investigated for welfare fraud by an investigator of the division of family and children or a county office of family and children;

~~(11)~~ **(12)** is being sought by the parent locator service of the child support bureau of the division of family and children; or

~~(12)~~ **(13)** has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Possession of child pornography (IC 35-42-4-4(c)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

(I) *Sexual misconduct with a minor as a Class A or B felony (IC 35-42-4-9).*

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the

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1 following noncriminal justice organizations:

2 (1) Federally chartered or insured banking institutions.

3 (2) Officials of state and local government for *any of the purpose*  
4 *of following purposes:*

5 (A) Employment ~~and~~ with a state or local governmental  
6 entity.

7 (B) Licensing.

8 (3) Segments of the securities industry identified under 15 U.S.C.  
9 78q(f)(2).

10 (c) Any person who uses limited criminal history for any purpose  
11 not specified under this section commits a Class A misdemeanor.

12 SECTION 2. IC 5-2-5-15, AS ADDED BY P.L.272-2001,  
13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2002]: Sec. 15. (a) The department is designated as the  
15 authorized agency to receive requests for, process, and disseminate the  
16 results of national criminal history background checks that comply with  
17 this section and 42 U.S.C. 5119a.

18 (b) A qualified entity may contact the department to request a  
19 national criminal history background check on any of the following  
20 persons:

21 (1) A person who seeks to be or is employed with the qualified  
22 entity. **Unless the qualified entity is a school corporation**  
23 **making a request under IC 20-5-2-7**, a request under this  
24 subdivision must be made not later than three (3) months after the  
25 person is initially employed by the qualified entity.

26 (2) A person who seeks to volunteer or is a volunteer with the  
27 qualified entity. A request under this subdivision must be made  
28 not later than three (3) months after the person initially volunteers  
29 with the qualified entity.

30 (c) A qualified entity must submit a request under subsection (b) in  
31 the form required by the department and provide a set of the person's  
32 fingerprints and any required fees with the request.

33 (d) If a qualified entity makes a request in conformity with  
34 subsection (b), the department shall submit the set of fingerprints  
35 provided with the request to the Federal Bureau of Investigation for a  
36 national criminal history background check for convictions described  
37 in IC 20-5-2-8. The department shall respond to the request in  
38 conformity with:

39 (1) the requirements of 42 U.S.C. 5119a; and

40 (2) the regulations prescribed by the United States attorney  
41 general under 42 U.S.C. 5119a.

42 (e) This subsection applies to a qualified entity that:

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- (1) is not a school corporation or a special education cooperative;  
or  
(2) is a school corporation or a special education cooperative and seeks a national criminal history background check for a volunteer.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall make a determination whether the applicant has been convicted of an offense described in IC 20-5-2-8 and convey the determination to the requesting qualified entity.

(f) This subsection applies to a qualified entity that:

- (1) is a school corporation or a special education cooperative; and  
(2) seeks a national criminal history background check for the purposes determining whether to employ or continue the employment of a certificated employee or a noncertificated employee of a school corporation or an equivalent position with a special education cooperative.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department may exchange identification records concerning convictions for offenses described in IC 20-5-2-8 with the school corporation or special education cooperative solely for purposes of making an employment determination. The exchange may be made only for the official use of the officials with authority to make the employment determination. The exchange is subject to the restrictions on dissemination imposed under P.L.92-544, (86 Stat. 1115) (1972).

SECTION 3. IC 20-5-2-7, AS AMENDED BY P.L.272-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) A school corporation, including a school township, shall adopt a policy concerning criminal history information for individuals who:

- (1) ~~apply~~ **are noncertificated or certificated employees of the school corporation;**  
(2) **are applicants for:**  
(A) **noncertificated or certificated** employment with the school corporation; or  
(B) employment with an entity with which the school corporation contracts for services;  
~~(2)~~ (3) seek to enter into a contract to provide services to the school corporation; or  
~~(3)~~ (4) are employed by an entity that seeks to enter into a contract to provide services to the school corporation;



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if the individuals are likely to have direct, ongoing contact with children within the scope of the individuals' employment.

(b) A school corporation, including a school township, shall administer a policy adopted under this section uniformly for all individuals to whom the policy applies. A policy adopted under this section may require any of the following:

(1) The school corporation, including a school township, may request limited criminal history information concerning each applicant **or individual who is hired** for noncertificated employment or certificated employment from a local or state law enforcement agency. ~~before or not later than three (3) months after the applicant's employment by the school corporation.~~

(2) Each individual hired for noncertificated employment or certificated employment may be required to provide a written consent for the school corporation to request under IC 5-2-5:

(A) limited criminal history information; or

(B) a national criminal history background check; concerning the individual. ~~before or not later than three (3) months after the individual's employment by the school corporation.~~ The school corporation may require the individual to provide a set of fingerprints and pay any fees required for a national criminal history background check.

(3) Each individual hired for noncertificated employment may be required ~~at the time the individual is hired~~ to submit a certified copy of the individual's limited criminal history (as defined in IC 5-2-5-1(1)) to the school corporation.

(4) Each individual hired for noncertificated employment may be required ~~at the time the individual is hired~~ to:

(A) submit a request to the Indiana central repository for limited criminal history information under IC 5-2-5;

(B) obtain a copy of the individual's limited criminal history; and

(C) submit to the school corporation the individual's limited criminal history and a document verifying a disposition (as defined in IC 5-2-5-1(6)) that does not appear on the limited criminal history.

(5) Each applicant **or individual who is hired** for noncertificated employment or certificated employment may be required ~~at the time the individual applies~~ to answer questions concerning the individual's limited criminal history. The failure **of an employee** to answer honestly questions asked under this subdivision is grounds for termination of the employee's employment.



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(6) Each individual that:

(A) seeks to enter into a contract to provide services to a school corporation; or

(B) is employed by an entity that seeks to enter into a contract with a school corporation;

may be required at the time the contract is formed to comply with the procedures described in ~~subdivision (4)(A) and (4)(B)~~. **The subdivisions (2), (4), and (5). An individual who is employed by an entity that seeks to enter into a contract with a school corporation may be required to provide the consent described in subdivision (2) or the information described in subdivisions (4) and (5) to either the individual's employer or the school corporation. school corporation either may require that the individual or the contractor comply with the procedures described in subdivision (4); (C) or (5).** Failure to comply with subdivisions (2), (4), and (5), as required by the school corporation, is grounds for termination of the contract.

(c) If an individual is required to obtain a limited criminal history under this section, the individual is responsible for all costs associated with obtaining the limited criminal history.

(d) Information obtained under this section must be used in accordance with IC 5-2-5-6 **or IC 5-2-5-15.**

SECTION 4. IC 20-6.1-3-7, AS AMENDED BY P.L.37-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) On the written recommendation of the state superintendent, the board may revoke **or suspend** a license for:

(1) immorality;

(2) misconduct in office;

(3) incompetency; or

(4) willful neglect of duty.

However, for each revocation **or suspension**, the board shall comply with IC 4-21.5-3.

(b) **This subsection applies when a law enforcement agency has actual knowledge that an employee of a school corporation or a nonpublic school who instructs or supervises children has been arrested for a:**

(1) felony;

(2) Class A misdemeanor described in IC 35; or

(3) violation of IC 9-30-5-1 (operating while intoxicated) as a Class A misdemeanor.

**The chief executive officer or equivalent authority of the law enforcement agency shall immediately give written notice of the**

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1 arrest to the superintendent of the school corporation or equivalent  
2 authority for the nonpublic school that employs the person who  
3 was arrested.

4 (c) This subsection applies when a prosecuting attorney has  
5 actual knowledge that an employee of a school corporation or a  
6 nonpublic school who instructs or supervises children has been  
7 convicted of a:

- 8 (1) felony;
- 9 (2) Class A misdemeanor described in IC 35; or
- 10 (3) violation of IC 9-30-5-1 (operating while intoxicated) as a  
11 Class A misdemeanor.

12 The prosecuting attorney shall immediately give written notice of  
13 the conviction to the superintendent of the school corporation or  
14 equivalent authority for the nonpublic school that employs the  
15 person who was convicted.

16 (d) The superintendent of a school corporation or equivalent  
17 authority for an accredited nonpublic school shall immediately notify  
18 in writing the state superintendent when the person ~~knows~~ has actual  
19 knowledge that a current or former licensed employee of the school  
20 corporation or accredited nonpublic school has:

- 21 (1) been arrested or convicted of an offense listed in subsection
- 22 (b) or (c);
- 23 (2) been discharged from employment for any of the reasons
- 24 listed in subsection (a); or
- 25 (3) resigned to avoid discharge from employment for any of
- 26 the reasons listed in subsection (a).

27 ~~(e)~~ (e) The board, after holding a hearing on the matter, shall  
28 permanently revoke the license of a person who is known by the board  
29 to have been convicted of any of the following offenses:

- 30 (1) Kidnapping (IC 35-42-3-2), if the victim is less than
- 31 eighteen (18) years of age.
- 32 (2) Criminal confinement (IC 35-42-3-3), if the victim is less
- 33 than eighteen (18) years of age.
- 34 (3) Rape (IC 35-42-4-1), if the victim is less than eighteen (18)
- 35 years of age.
- 36 ~~(2)~~ (4) Criminal deviate conduct (IC 35-42-4-2), if the victim is
- 37 less than eighteen (18) years of age.
- 38 ~~(3)~~ (5) Child molesting (IC 35-42-4-3).
- 39 ~~(4)~~ (6) Child exploitation (IC 35-42-4-4(b)).
- 40 ~~(5)~~ (7) Vicarious sexual gratification (IC 35-42-4-5).
- 41 ~~(6)~~ (8) Child solicitation (IC 35-42-4-6).
- 42 ~~(7)~~ (9) Child seduction (IC 35-42-4-7).





~~(8)~~ **(10)** Sexual misconduct with a minor (IC 35-42-4-9).

~~(9)~~ **(11)** Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

**(12) Dealing in a controlled substance (IC 35-48-4-1 through IC 35-48-4-5).**

~~(d)~~ **(f)** A license may be suspended by the state superintendent as specified in IC 20-6.1-4-13.

**(g) A person who makes a report required under this section is immune from civil liability for the report and the consequences proximately caused by the report, unless it is proven by a preponderance of the evidence that the information reported was known by the reporter to be false at the time the report was made.**

SECTION 5. IC 20-6.1-4-10, AS AMENDED BY P.L.228-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) An indefinite contract with a permanent teacher may be canceled in the manner specified in section 11 of this chapter ~~for only for any one (1) of~~ the following grounds:

(1) Immorality.

(2) Insubordination, which means a willful refusal to obey the state school laws or reasonable rules prescribed for the government of the school corporation.

(3) Neglect of duty.

(4) Incompetency.

(5) Justifiable decrease in the number of teaching positions.

(6) A conviction for **one (1) of the following:**

**(A) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.**

**(B) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.**

**(C) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.**

~~(B)~~ **(D)** Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

~~(C)~~ **(E)** Child molesting (IC 35-42-4-3).

~~(D)~~ **(F)** Child exploitation (IC 35-42-4-4(b)).

~~(E)~~ **(G)** Vicarious sexual gratification (IC 35-42-4-5).

~~(F)~~ **(H)** Child solicitation (IC 35-42-4-6).

~~(G)~~ **(I)** Child seduction (IC 35-42-4-7).

~~(H)~~ **(J)** Sexual misconduct with a minor ~~as a Class A or B felony~~ (IC 35-42-4-9). ~~or~~

~~(I)~~ **(K)** Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age. ~~or~~



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**(L) Dealing in a controlled substance (IC 35-48-4-1 through IC 35-48-4-5).**

(7) Other good and just cause.

When the cause of cancellation is ground (1), (2), or (6), the cancellation is effective immediately. When the cause of cancellation is ground (3), (4), (5), or (7), the cancellation is effective at the end of the school term following the cancellation.

(b) An indefinite contract may not be canceled for political or personal reasons.

SECTION 6. IC 20-6.1-4-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10.5. (a) An indefinite contract with a semipermanent teacher may be canceled in the manner specified in section 11 of this chapter only for **one (1) of** the following grounds:

(1) Immorality.

(2) Insubordination, which means a willful refusal to obey the state school laws or reasonable rules prescribed for the government of the school corporation.

(3) Neglect of duty.

(4) Substantial inability to perform teaching duties.

(5) Justifiable decrease in the number of teaching positions.

(6) Good and just cause.

(7) The cancellation is in the best interest of the school corporation.

(8) A conviction for **one (1) of the following**:

**(A) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.**

**(B) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.**

**(C) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.**

~~(B)~~ **(D) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.**

~~(C)~~ **(E) Child molesting (IC 35-42-4-3).**

~~(D)~~ **(F) Child exploitation (IC 35-42-4-4(b)).**

~~(E)~~ **(G) Vicarious sexual gratification (IC 35-42-4-5).**

~~(F)~~ **(H) Child solicitation (IC 35-42-4-6).**

~~(G)~~ **(I) Child seduction (IC 35-42-4-7). or**

~~(H)~~ **(J) Sexual misconduct with a minor (IC 35-42-4-9).**

**(K) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.**

**(L) Dealing in a controlled substance (IC 35-48-4-1**

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through IC 35-48-4-5).

(b) An indefinite contract with a semipermanent teacher may not be canceled for political or personal reasons.

(c) Before the cancellation of a semipermanent teacher's indefinite contract, the principal of the school at which the teacher teaches shall provide the teacher with a written evaluation of the teacher's performance before January 1 of each year. Upon the request of a semipermanent teacher, delivered in writing to the principal within thirty (30) days after the teacher receives the evaluation required by this section, the principal shall provide the teacher with an additional written evaluation.

SECTION 7. IC 20-6.1-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. (a) An indefinite contract with a permanent or semi-permanent teacher may be canceled only in the following manner:

(1) The teacher shall be notified in writing of the date, time, and place for the consideration by the school corporation of the cancellation of the contract; this notification must occur not more than forty (40) days nor less than thirty (30) days before the consideration.

(2) The teacher shall be furnished, within five (5) days after a written request, a written statement of the reasons for the consideration.

(3) The teacher may file a written request for a hearing within fifteen (15) days after receipt of the notice of this consideration.

(4) When the request for a hearing is filed, the teacher shall be given a hearing before the governing body on a day no earlier than five (5) days after filing;

(5) The teacher shall be given not less than five (5) days notice of the time and place of the hearing.

(6) At the hearing, the teacher is entitled:

(A) to a full statement of the reasons for the proposed cancellation of the contract; and

(B) to be heard, to present the testimony of witnesses and other evidence bearing on the reasons for the proposed cancellation of the contract.

(7) A contract may not be canceled until:

(A) the date set for consideration of the cancellation of the contract;

(B) after a hearing is held, if a hearing is requested by the teacher; and

(C) the superintendent has given ~~his~~ the superintendent's

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1 recommendations on the contract; on five (5) days written  
 2 notice to ~~him~~ **the superintendent** by the **governing body of**  
 3 **the** school corporation, the superintendent shall present ~~his~~ **the**  
 4 **superintendent's** recommendation on each contract, except on  
 5 a superintendent's contract.

6 (8) Pending a decision on the cancellation of a teacher's contract,  
 7 the teacher may be suspended from duty. ~~and~~

8 (9) After complying with section 10 of this chapter in the case of  
 9 permanent teachers, or section 10.5 of this chapter in the case of  
 10 semi-permanent teachers, and this section, the governing body of  
 11 the school corporation may cancel an indefinite contract with a  
 12 teacher by a majority vote evidenced by a signed statement in the  
 13 minutes of the board; the decision of the governing board is final.

14 The vote to cancel a contract described in subdivision (9) must be  
 15 taken by the governing body on the date and at the time and place  
 16 specified in subdivision (1).

17 (b) If a permanent or semi-permanent teacher is suspended under  
 18 subsection (a)(8) and except as provided in IC 20-6.1-5-11, the  
 19 governing body may not (while the teacher is suspended) withhold  
 20 from the teacher salary payments or other employment related benefits  
 21 that before the suspension the teacher was entitled to receive.

22 (c) **Notwithstanding subsection (b), a permanent or**  
 23 **semipermanent teacher may be suspended under subsection (a)(8)**  
 24 **without salary payments if the teacher is charged with an offense**  
 25 **listed in section 10(6) or 10.5(8) of this chapter. If a teacher who is**  
 26 **suspended without salary payments returns to work, the governing**  
 27 **body shall restore to the teacher all salary that was withheld**  
 28 **during the period of suspension.**

29 (d) The governing body may appoint an agent (who is not an  
 30 employee of the school corporation, but who may be a member of the  
 31 governing body or an attorney retained to administer the hearing  
 32 proceedings under this section) for the purpose of issuing subpoenas  
 33 for the attendance of witnesses for either party at the hearing. A  
 34 subpoena issued under this section shall be:

35 (1) served by the party who seeks to compel the attendance of a  
 36 witness; and

37 (2) upon application to the court by the party, enforced in the  
 38 manner provided by law for the service and enforcement of  
 39 subpoenas in a civil action.

40 SECTION 8. IC 34-30-2-84.5 IS ADDED TO THE INDIANA  
 41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 42 [EFFECTIVE JULY 1, 2002]: **Sec. 84.5. IC 20-6.1-3-7 (Concerning**

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1 **a person who makes a report concerning a teacher).**

2 SECTION 9. IC 35-42-4-7, AS AMENDED BY P.L.228-2001,  
3 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2002]: Sec. 7. (a) As used in this section, "adoptive parent"  
5 has the meaning set forth in IC 31-9-2-6.

6 (b) As used in this section, "adoptive grandparent" means the parent  
7 of an adoptive parent.

8 (c) As used in this section, "child care worker" means a person who:

9 (1) provides care, supervision, or instruction to a child within the  
10 scope of the person's employment in a ~~public or private school or~~  
11 shelter care facility; **or**

12 (2) **is employed by a:**

13 (A) **school corporation; or**

14 (B) **nonpublic school;**

15 **attended by a child who is the victim of a crime under this**  
16 **chapter.**

17 (d) As used in this section, "custodian" means any person who  
18 resides with a child and is responsible for the child's welfare.

19 (e) **As used in this section, "nonpublic school" has the meaning**  
20 **set forth in IC 20-10.1-1-3.**

21 (f) **As used in this section, "school corporation" has the meaning**  
22 **set forth in IC 20-10.1-1-1.**

23 (g) As used in this section, "stepparent" means an individual who is  
24 married to a child's custodial or noncustodial parent and is not the  
25 child's adoptive parent.

26 ~~(f)~~ (h) If a person who is:

27 (1) at least eighteen (18) years of age; and

28 (2) the:

29 (A) guardian, adoptive parent, adoptive grandparent,  
30 custodian, or stepparent of; or

31 (B) child care worker for;

32 a child at least sixteen (16) years of age but less than eighteen  
33 (18) years of age;

34 engages **with the child** in sexual intercourse, ~~or~~ deviate sexual conduct  
35 (as defined in IC 35-41-1-9), ~~with the child; or any fondling or~~  
36 **touching with the intent to arouse or satisfy the sexual desires of**  
37 **either the child or the adult,** the person commits child seduction, a  
38 Class D felony.

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SENATE MOTION

Mr. President: I move that Senator Waterman be added as coauthor of Senate Bill 207.

CLARK

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SENATE MOTION

Mr. President: I move that Senator Howard be added as coauthor of Senate Bill 207.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 207, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-2-5-5, AS AMENDED BY P.L.272-2001, SECTION 2, AND AS AMENDED BY P.L.228-2001, SECTION 2, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) Except as provided in subsection (b), on request, law enforcement agencies shall release or allow inspection of a limited criminal history to noncriminal justice organizations or individuals only if the subject of the request:

- (1) has applied for employment with a noncriminal justice organization or individual;
- (2) has applied for a license and criminal history data as required by law to be provided in connection with the license;
- (3) is a candidate for public office or a public official;
- (4) is in the process of being apprehended by a law enforcement agency;
- (5) is placed under arrest for the alleged commission of a crime;
- (6) has charged that his rights have been abused repeatedly by criminal justice agencies;
- (7) is the subject of judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;
- (8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;
- (9) is employed by a public school (as defined in IC 20-10.1-1-2) or nonpublic school (as defined in IC 20-10.1-1-3) or by an entity that seeks to enter into a contract with a public or nonpublic school if the subject of the request is expected to have direct, ongoing contact with school children within the scope of the individual's employment;**
- (10) has volunteered services at a public school (as defined in IC 20-10.1-1-2) or non-public school (as defined in IC 20-10.1-1-3) that involve contact with, care of, or supervision over a student enrolled in the school;**
- (11) is being investigated for welfare fraud by an investigator**



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of the division of family and children or a county office of family and children;

~~(H)~~ **(12)** is being sought by the parent locator service of the child support bureau of the division of family and children; or

~~(I)~~ **(13)** has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Possession of child pornography (IC 35-42-4-4(c)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

(I) *Sexual misconduct with a minor as a Class A or B felony (IC 35-42-4-9).*

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

(1) Federally chartered or insured banking institutions.

(2) Officials of state and local government for *any of the purpose of following purposes:*

(A) Employment ~~and~~ *with a state or local governmental entity.*

(B) Licensing.

(3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor."

Page 4, line 21, strike "subdivision (4)(A) and (4)(B). The" and insert **"subdivisions (2), (4), and (5). An individual who is employed by an entity that seeks to enter into a contract with a school corporation may be required to provide the consent described in subdivision (2) or the information described in subdivisions (4) and (5) to either the individual's employer or the school corporation."**



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Page 4, strike lines 22 through 23.  
 Page 4, line 24, strike "(4)(C) or (5).".  
 Page 4, line 24, after "subdivisions" insert "(2),".  
 Page 4, line 24, after "(4)" insert ",".  
 Page 5, line 1, delete "knows" and insert "**has actual knowledge**".  
 Page 5, line 1, delete "a licensed" and insert "**an**".  
 Page 5, line 1, after "or" delete "an" and insert "**a**".  
 Page 5, line 2, delete "accredited".  
 Page 5, line 2, after "school" insert "**who instructs or supervises children**".  
 Page 5, line 2, after "for a" insert ":".  
 Page 5, line 2, delete "felony or a", begin a new line block indented and insert:  
     **"(1) felony;**  
     **(2) Class A misdemeanor described in IC 35; or**  
     **(3) violation of IC 9-30-5-1 (operating while intoxicated) as a**  
     **Class A misdemeanor."**  
 Page 5, line 3, delete "misdemeanor".  
 Page 5, line 3, beginning with "The" begin a new line blocked left.  
 Page 5, line 4, after "give" insert "**written**".  
 Page 5, line 6, delete "accredited".  
 Page 5, line 8, delete "knows" and insert "**has actual knowledge**".  
 Page 5, line 9, delete "a licensed" and insert "**an**".  
 Page 5, line 9, delete "an accredited" and insert "**a**".  
 Page 5, line 10, after "school" insert "**who instructs or supervises children**".  
 Page 5, line 10, after "of a" insert ":".  
 Page 5, line 10, delete "felony or a misdemeanor.", begin a new line block indented and insert:  
     **"(1) felony;**  
     **(2) Class A misdemeanor described in IC 35; or**  
     **(3) violation of IC 9-30-5-1 (operating while intoxicated) as a**  
     **Class A misdemeanor."**  
 Page 5, line 11, after "give" insert "**written**".  
 Page 5, line 13, delete "accredited".  
 Page 5, line 16, after "notify" insert "**in writing**".  
 Page 5, line 17, strike "knows" and insert "**has actual knowledge**".  
 Page 5, line 20, reset in roman "an offense listed in subsection".  
 Page 5, line 20, after "subsection" insert "**(b) or**".  
 Page 5, line 21, delete "(c). A felony or a misdemeanor;" and insert "(c);".  
 Page 5, line 29, after "(1)" insert "**Kidnapping (IC 35-42-3-2), if**

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the victim is less than eighteen (18) years of age.

**(2) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.**

**(3)".**

Page 5, line 31, strike "(2)" and insert "(4)".

Page 5, line 33, strike "(3)" and insert "(5)".

Page 5, line 34, strike "(4)" and insert "(6)".

Page 5, line 35, strike "(5)" and insert "(7)".

Page 5, line 36, strike "(6)" and insert "(8)".

Page 5, line 37, strike "(7)" and insert "(9)".

Page 5, line 38, strike "(8)" and insert "(10)".

Page 5, line 39, strike "(9)" and insert "(11)".

Page 5, between lines 40 and 41, begin a new line block indented and insert:

**"(12) Dealing in a controlled substance (IC 35-48-4-1 through IC 35-48-4-5)."**

Page 6, line 10, strike "only".

Page 6, line 10, after "only for" insert "any".

Page 6, line 19, after "(A)" insert "**Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.**

**(B) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.**

**(C)".**

Page 6, line 21, strike "(B)" and insert "(D)".

Page 6, line 23, strike "(C)" and insert "(E)".

Page 6, line 24, strike "(D)" and insert "(F)".

Page 6, line 25, strike "(E)" and insert "(G)".

Page 6, line 26, strike "(F)" and insert "(H)".

Page 6, line 27, strike "(G)" and insert "(I)".

Page 6, line 28, strike "(H)" and insert "(J)".

Page 6, line 30, strike "(I)" and insert "(K)".

Page 6, between lines 31 and 32, begin a new line double block indented and insert:

**"(L) Dealing in a controlled substance (IC 35-48-4-1 through IC 35-48-4-5)."**

Page 7, line 13, after "(A)" insert "**Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.**

**(B) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.**

**(C)".**

Page 7, line 15, strike "(B)" and insert "(D)".

Page 7, line 17, strike "(C)" and insert "(E)".

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Page 7, line 18, strike "(D)" and insert **"(F)"**.

Page 7, line 19, strike "(E)" and insert **"(G)"**.

Page 7, line 20, strike "(F)" and insert **"(H)"**.

Page 7, line 21, strike "(G)" and insert **"(I)"**.

Page 7, line 22, strike "(H)" and insert **"(J)"**.

Page 7, line 23, delete "(I)" and insert **"(K)"**.

Page 7, between lines 24 and 25, begin a new line double block indented and insert:

**"(L) Dealing in a controlled substance (IC 35-48-4-1 through IC 35-48-4-5)."**

Page 9, delete lines 21 through 42.

Page 10, delete line 1.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 207 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 8, Nays 0.

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